

**WAUKESHA COUNTY
MINUTES OF THE PARK AND PLANNING COMMISSION
ADMINISTRATION CENTER, ROOM AC 255/259
THURSDAY, FEBRUARY 17, 2:40 P.M.**

CALL TO ORDER

Bill Mitchell, Chairperson, called the meeting to order at 2:40 p.m.

Commission

Members Present:	Bill Mitchell	Bob Peregrine	Walter Kolb	Gary Goodchild
	Jim Siepmann	Pat Haukohl	Fritz Ruf	

Commission

Members Absent: None

Staff

Members Present: Jason Fruth, Planning and Zoning Manager
Elfriede Sprague, Clerk Typist III
Sandy Scherer, Senior Planner

Guests Present: Stephan Lukach
Robert Fox (Surveyor) St. Anthony's on the Lake

CORRESPONDENCE: None.

MEETING APPROVAL:

WCCA 2011 Spring Conference, March 31 and April 1, 2011. Stoney Creek Inn, 1100 Imperial Ave., Mosinee, WI 54455.

- *Mrs. Haukohl moved, seconded by Mr. Kolb and carried unanimously for approval of any interested Commissioners attending the WCCA 2011 Spring Conference on March 31 and April 1, 2011 in Mosinee, WI.*

MINUTES Approval of the January 20, 2011, Minutes.

- *Mr. Siepmann moved, seconded by Mrs. Haukohl and carried unanimously for approval of the January 20, 2011, Minutes.*

PUBLIC COMMENT:

Chairman Mitchell asked if anyone from the audience wished to address the Commission?

Mr. Lukach asked if the Commission could hear his case first as he had to leave for an appointment. The Commission agreed to address the miscellaneous agenda items first.

- **(Stephen and Jane Lukach) Town of Delafield, Section 14**

Mr. Fruth presented the "Staff Memorandum" dated February 17, 2011, and made a part of these Minutes. He pointed out the location of the property at N30 W29497 Hillcrest Drive in the Town of Delafield and stated the request is to amend an existing condition of approval (Condition No. 8) regarding recordation of a Deed Restriction for a retaining wall within 5 ft. of the east lot line. (Matter originally heard at the May 7, 2009, Commission Meeting).

Mr. Fruth stated the property is an approximately 60 to 67 foot wide lot located on the north side of Pewaukee Lake at the end of Hillcrest Drive. In 2007, a permit for the house and attached and detached garages was issued with the condition that a grading plan be followed. A permit was also applied for in August of 2008 for a patio, outcroppings, steps and again a requirement was for compliance with a revised grading plan. In September 2008 a complaint was received regarding the grading plan. Upon investigation, the garage floor was found to be one-half foot higher than it was depicted on the approved grading plan and the finished yard grade was also a bit high. The property to the east was also in violation of an approved grading plan; however, they have since brought their property into compliance. After-the-fact approval was sought for the retaining wall which is built along and on the property line and essentially supports the driveway. Because the retaining wall is within five feet of a property line, approval from the Town and the Waukesha County Park and Planning Commission was needed. At the May 7, 2009 meeting the Commission approved the matter with the condition that a Deed Restriction be filed disclosing that there is a retaining wall on the lot line and that the neighboring property owner be required to sign the agreement allowing access from his property for maintenance of the wall. Maintenance was to be specified as being the responsibility of Mr. Lukach. Mr. Lukach has been unable to obtain the authorization from the adjacent owner, so he is now proposing to perform the maintenance only from his property. The Town Engineer has reviewed and approved the plans for the wall. Mr. Lukach and his representatives have investigated lowering the wall below 18 inches; however, the Town Engineer and the Design Engineer felt that lowering the wall would compromise the driveway. Preliminarily there was indication from the Town that the adjacent owner was agreeable to the Deed Restriction; however, on June 2, 2009 he sent the Town a follow-up email objecting to the Drainage Plan and stated that he would not sign a Declaration of Restriction. The Land Resources Division made a few recommendations in reviewing the revised proposal; specifically they recommended that some stone that was provided be increased in size so it would be more of a rip rap. This suggestion has been completed. They also recommended an extension of a drain pipe, which has not been done and there is a swale on the lot line that coincides with the previously discussed stone. A curb has been installed on the driveway along the wall to keep drainage from going on to the adjacent property.

The Planning and Zoning Division Staff is recommending for approval of the removal of Condition No. 8 regarding recordation of a Deed Restriction for a retaining wall within 5 ft. of the east lot line with the condition that the petitioner shall obtain an after-the-fact Zoning Permit for the construction of the retaining wall along the east lot line, prior to March 4, 2011. The Staff does not believe it is viable to drop the garage floor at this point as it would cause an undue hardship or burden on the petitioner. In fact, the incorporation of the new Drainage Plan protects the adjacent property owner from adverse drainage, most likely to a greater extent than what existed prior to the construction of any improvements on the subject property, since drainage was always directed toward the southeast.

Mrs. Haukohl asked if a Deed Restriction is needed to ensure Mr. Lukach would maintain the wall? Mr. Siepmann commented that because it is Mr. Lukach's wall, he would need to retain it from his property, which is possible. The wall is for the driveway and if it fails, it would affect Mr. Lukach. It would not affect his neighbor. The Commissioners felt the adjacent property owner would not be averse to allowing access for repairs if it was ever necessary, however he probably does not want a recorded Deed Restriction on his property. Commissioner Haukohl questioned if the Zoning Permit would state who would be responsible for maintenance of the retaining wall. Mr. Fruth assured her that it would be conditioned in the permit.

After discussion, Mr. Peregrine moved, seconded by Mr. Ruf, and carried unanimously to remove Condition No. 8 of the Waukesha County Park and Planning Commission decision letter dated May 14, 2009, with the added condition that the petitioner shall obtain an after-the-fact Zoning Permit for the construction of the retaining wall along the east lot line, prior to March 4, 2011, in accordance with the "Staff Memorandum". The approval of this request, will allow the petitioner a reasonable use of his land and meets the intent and purposes of all County Ordinances.

- **SCS-628A (St. Anthony on the Lake/Pewaukee Yacht Club Inc.) Town of Delafield, Section 24**

Mr. Fruth presented the “Staff Memorandum” dated February 17, 2011, and made a part of these Minutes. He pointed out the location of the property in the NE ¼ of Section 24, Town of Delafield and stated the request is for an established road right-of-way width waiver for the portion of Edgewater Drive, which is a minor dead end road, abutting a pending Certified Survey Map for St. Anthony on the Lake Congregation and the Pewaukee Yacht Club Inc.

Mr. Fruth explained that St. Anthony’s church has acquired the former Lakeview Bowling alley lands. They are proposing to create a Certified Survey Map (CSM) and do a transfer of land between the Yacht Club and the church. The Yacht Club property will extend a little further to the south and rather than dedicate the additional three feet that would be required, they are requesting a road right-of-way width reduction from 66 ft., for the 231 ft. of frontage on Edgewater Dr., to its platted width of 60 ft., as set forth in the Plat of Waukesha Beach recorded in 1907. The Town Engineer has stated there is adequate space for drainage and all other future improvements. He also notes that the current road pavement is located on the northerly half of the road right-of-way and because there are no plans to expand the pavement beyond a width of 24 ft., it is a reasonable request.

After discussion, Mr. Siepmann moved, seconded by Mrs. Haukohl, and carried with 6 yes votes, (Mr. Ruf recused himself) for approval, in accordance with the “Staff Memorandum”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **(Gregory and Andrea Stack) Town of Oconomowoc, Section 29**

Mr. Fruth presented the “Staff Memorandum” dated February 17, 2011, and made a part of these Minutes. He pointed out the location of the property in Section 29 of the Town of Oconomowoc and stated the request is for an established road right-of-way width waiver for those portions of Lakeland Drive with a platted right-of-way width of less than 66 ft.

Mr. Fruth explained the petitioner owns two lots abutting Lakeland Dr. He is requesting a waiver to reduce the established right-of-way width of Lakeland Dr., in those areas where the platted width is less than 66 ft., to its platted width. He noted that although the Oconomowoc Town Board made their recommendation in 2009, the requested established road right-of-way width waiver was not scheduled for review by the Waukesha County Park and Planning Commission until now because the Planning and Zoning Division Staff did not become aware of it until January 2011. He continued that because Lakeland Drive is a minor dead-end road, the Town has included all portions of the road in their Resolution. The Town Board has determined that the platted right-of-way is now, and will be in the future, adequate for future street improvements and surface water drainage facilities and provides a street that is safe for vehicular and pedestrian travel. They also feel that a 66 ft. wide established road right-of-way on Lakeland Drive is in excess of what is needed and creates hardships on property owners desiring to improve their properties, due to the road setback requirements. The Waukesha County Planning and Zoning Division Staff concur with their decision.

After discussion, Mrs. Haukohl moved, seconded by Mr. Siepmann, and carried unanimously for approval, in accordance with the “Staff Memorandum”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

- **ZT-1713 (Text Amendments - Town of Waukesha)**

Mr. Fruth presented the “Staff Report and Recommendation” dated February 17, 2011, and made a part of these Minutes. He indicated the request is to consider three text amendments to the Town of Waukesha Zoning Code.

Mr. Fruth explained the first amendment is related to corner lot setbacks. The current code provisions require accessory buildings to be no closer to the road than the principal structure, and must meet the required road setback from both the primary and secondary street. In most of the Town’s zoning districts this setback is 50 ft. from the road with the primary street being determined by the driveway location or address assigned to the property. The proposed amendment would allow for accessory buildings on corner lots to be located in accordance with the offset requirements for the district relative to the secondary abutting street. This amendment would drop the required setback in most of the Town’s zoning districts from 50 ft. to 20 ft. Mrs. Haukohl questioned whether a 20 ft. setback on a corner lot would allow for an adequate vision corner or create unsightly structures. Mr. Fruth replied because there is a 50 ft. setback required on one side, the required vision corner easement would extend a minimum of 50 ft. from the corner on one side and to the specified vision triangle dimensions on the other side. The Commissioners felt this could create the possibility of unsightly structures; however they agreed if the Town wanted the change, they had no objections to it.

The second amendment, which addresses the section of the town code relative to non-conforming structures and uses, is proposed to be amended to limit the total repairs over the life of the structure to 50% of the assessed value of a building, except for structures damaged by natural disasters or vandalism. A similar provision had existed in the town code until the non-conformity section was amended in 2007. In accordance with state law, the amendments note that restoration of non-conforming structures is permissible where damage occurred after March 2, 2006 and was caused by certain natural disasters such as floods, mold or infestation. The proposed amendment also allows for the termination of legal non-conforming conditional use status by the Town Board upon just cause. He noted that under the County Code, the County has the right to terminate all Conditional Uses for just cause, not just legal non-conforming.

The last amendment relates to proposed changes relative to open space requirements for the A-1 Agricultural District, which is a 20-acre district. The proposed amendment would eliminate the open space requirements for A-1 parcels, with the exception of Planned Unit Developments (PUDs). The town code currently calls for a minimum of 18 acres of open space for parcels within the A-1 District. He added, he had asked Tom Delacey of the Town what prompted this change and he answered it was because there are some existing parcels with less than 20 acres that cannot make this requirement. The thought is that in a 20-acre district, regardless of the house size, there will be a large amount of open space.

After discussion, Mr. Kolb moved, seconded by Mr. Siepmann, and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”.

- **ZT-1714 (Lisbon Land Partnership LLP/John and Marilynn Spitz) Town of Lisbon, (PR Park and Recreation District to the A-3 Agricultural/Residential Estate District)**

Mr. Fruth presented the “Staff Report and Recommendation” dated February 17, 2011, and made a part of these Minutes. He pointed out the location of the properties southeast of the end of Tamnamore Drive in Sections 19 and 20 of the Town of Lisbon on the aerial photograph.

He explained the property is owned by the owner of the golf course. The intent has always been to split off an area for single-family residential development. This request overlaps two parcels, to be combined by Certified Survey Map, and would be served by an existing service drive/easement. This easement is also utilized by the golf course to gain access to the northern portion of the course. An access and maintenance agreement will be a condition of the approval in conjunction with the review and approval of the Certified Survey Map. The density calculations for the Ironwood East and Ironwood West Subdivisions allowed for 83 lots. Less than 70 lots were developed, so this rezone is consistent with the overall build out. During the Land Use Plan Amendment

process for this subdivision, there was a condition “to provide an alternative access to servicing the future 3+ acre lot off of the golf course lands with a public road rather than a private easement if at all possible”. The owner did pursue this option via the Olsen property, but was unable to get access. Ms. Scherer added the Olsen property is directly to the north of the proposed parcel and they have tried to create an access, but because of their own parcel’s layout, they were unable to do so.

After discussion, Mr. Siepmann moved, seconded by Mr. Ruf, and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

• **ZT-1715 (Lisbon Land Partnership LLP/John and Marilynn Spitz) Town of Lisbon, (PR Park and Recreation District to the R-1 Suburban Single Family Residential District)**

Mr. Fruth presented the “Staff Report and Recommendation” dated February 17, 2011, and made a part of these Minutes. He pointed out the location of the property south of the end of Lakeview Drive in Section 20 of the Town of Lisbon on the aerial photograph to the east of the previous request (ZT-1714).

Mr. Fruth stated this property is also owned by the owner of the golf course. The intent is to divide a 1.65-acre parcel by Certified Survey Map for single family residential use. At the public hearing, one neighbor questioned the existing drainage issues at the end of Lakeview Drive and how the development of this parcel may affect the drainage. After discussion, it was decided that a storm water (drainage) easement would be placed on the face of the Certified Survey Map for the proposed lot. Ms. Scherer identified the drainage ditch and culvert on the Certified Survey Map to the Commissioners. Mr. Fruth added that the proposal also complies with the density calculations of the Ironwood East and West Subdivisions and the Town and County Development Plans.

After discussion, Mr. Peregrine moved, seconded by Mr. Ruf, and carried unanimously for approval, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.

ADJOURNMENT

With no further business to come before the Commission, Mrs. Haukohl moved, seconded by Mr. Siepmann to adjourn at 3:42 p.m.

Respectfully submitted,

Pat Haukohl
Secretary

PH:es